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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

C.M.

Petitioner,

v.

THE SUPERIOR COURT OF
RIVERSIDE COUNTY,

Respondent;

RIVERSIDE COUNTY DEPARTMENT
OF PUBLIC SOCIAL SERVICES,

Real Party in Interest.

E042687

(Super.Ct.No. RIJ108894)

OPINION

ORIGINAL PROCEEDINGS; petition for extraordinary writ. William A.

Anderson, Jr., Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Petition denied.

David Goldstein for Petitioner

No appearance for Respondent.

Joe S. Rank, County Counsel, and Carole A. Nunes Fong, Deputy County Counsel, for Real Party in Interest.

In this petition for writ relief, C.M. (mother) asks us to vacate the juvenile court's order terminating reunification services and setting a selection and implementation hearing pursuant to Welfare and Institutions Code¹ section 366.26 for her daughter, Alyssa. She asserts that there was insufficient evidence to support the finding of substantial detriment if Alyssa were returned to her custody. We disagree and, accordingly, we deny the petition.

FACTUAL AND PROCEDURAL BACKGROUND

The Riverside County Department of Public Social Services (department) filed a dependency petition as to Alyssa (born in June 2005) in February 2006, amended in March 2006, alleging that the minor was at risk because her parents had a history of domestic violence. It was alleged that mother's older child had been made a dependent based on findings of abuse and neglect, and that mother had not yet reunified. It was also reported that mother was on probation for the next eight months.

At the hearing on March 28, 2006, the juvenile court adjudged Alyssa a dependent child, with the parents retaining custody. It ordered that family maintenance services be provided.

Alyssa was detained in June 2006, following an unannounced visit by the social worker. The social worker entered the apartment after calling for mother, receiving no

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

response, and finding the security door unlocked. She found Alyssa alone on the floor, playing with a soda bottle. There were two cats nearby, dishes in the sink, and clothing on the floor. Mother did not arrive on the scene for 15 minutes. The social worker called the Perris Police Department, who cited mother for neglect. The social worker removed Alyssa from the home and placed her in protective custody.

The detention hearing on a supplemental petition was held on June 28 and the child was detained. The court ordered that reunification services be provided to the parents.

The juvenile court made the requisite jurisdictional findings at the hearing on July 20 and set a review hearing for September 28.

In the September 28, 2006, status review report, the social worker recommended that mother's services be terminated. The former opined that mother had not benefited from the services and there was no guarantee she would benefit from another six months of services. The social worker reported that mother had failed to complete her counseling sessions, apparently due to transportation problems. Mother had been referred to a domestic violence program, but the counselor reported that she was argumentative and rather belligerent to the point that mother was warned that she would be terminated if her behavior continued. The social worker found that mother continued to minimize her behavior and took no responsibility for the neglect that led to Alyssa's removal.

At a contested review hearing on November 7, 2006, the juvenile court ordered that reunification services be continued, and calendared a review hearing for January 22, 2007.

In the January 22, 2007, addendum report, the social worker again recommended that reunification services to both parents be terminated, indicating that the time for reunification had expired. The social worker stated that mother had lied about the father's current status, claiming he was out of state, whereas he had been in jail. Mother had moved across the street from father, despite a preexisting restraining order. Mother had completed only two of the required eight individual domestic violence counseling meetings and three of the required eight group domestic violence meetings. Due to changes in the program, mother would now have to attend 12 group and 12 individual meetings in order to complete the program, and the sessions would not begin until March 27, 2007. The social worker's recommendation was based on mother's failure to reunify with her older child, her poor judgment, irresponsibility, and repeated lies and misrepresentations.

Mother was present at the status review hearing on January 22, 2007, and the court set a contested review hearing for March 19, ordering the department to file a report by that time.

In the March 19, 2007, status review report, the social worker continued to recommend termination of services for both parents. The social worker noted that mother had claimed her failure to complete counseling was due to transportation and communication problems. Mother complained that the social worker did not respond to phone calls. Mother also stated that she was meeting with a therapist that was paid by her private medical insurance.

The report did indicate that mother attended supervised visits with Alyssa and that the visits went well. The social worker concluded that mother had failed to follow through on her case plan and lacked insight. In the opinion of the social worker, mother is childlike and immature, and Alyssa would be at risk of abuse or neglect if placed in her care. The social worker concluded that mother had made little effort to reunify and did not take advantage of opportunities offered to her.

After hearing testimony from both parents and the social worker at the contested review hearing on March 19, the juvenile court terminated services, and set a selection and implementation hearing for July 17, 2007.

DISCUSSION

Section 366.21, subdivision (e),² provides that at the six-month review hearing, “the court shall order the return of the child to the physical custody of his or her parent . . . unless the court finds, by a preponderance of the evidence, that the return of the child . . . would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. . . . The failure of [a] parent . . . to participate regularly and make substantive progress in court-ordered treatment programs [is] prima facie evidence that return would be detrimental.” (§§ 366.21, subd. (e), 366.22, subd. (a).)

² The department notes that mother incorrectly cites section 366.22, subdivision (a), whereas the applicable statute is section 366.21, subdivision (e), which pertains to the six-month review hearing. The provisions relevant to our discussion are substantially identical in both sections.

Our review of the juvenile court's finding that returning the child to mother's custody would be detrimental is limited to considering whether substantial evidence supports the finding. (*Robert L. v. Superior Court* (1996) 45 Cal.App.4th 619, 625.) "All conflicts must be resolved in favor of the respondent and the reviewing court must indulge in all reasonable inferences to support the findings of the juvenile court." (*In re Albert B.* (1989) 215 Cal.App.3d 361, 375.) Issues of fact and credibility are questions for the lower court. (*Constance K. v. Superior Court* (1998) 61 Cal.App.4th 689, 705.) If supported by substantial evidence, the court's ruling will not be disturbed on appeal absent a clear showing that the court exercised its wide discretion in an arbitrary, capricious, or patently absurd manner. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318-319; *Constance K. v. Superior Court, supra*, at p. 705.)

The juvenile court's findings are amply supported by the evidence. Mother's case plan required that she participate in an alternatives to domestic violence program, but she failed to receive a certificate for completing the program. The evidence shows that she attended only a few of the required group and individual sessions. Mother was given several referrals for individual counseling, but never completed a therapy program with any of the therapists. She complained of transportation problems, as well as conflicts with her work schedule, and asserted that she could not work with the therapists to whom the department had referred her. It is commendable that mother obtained (on her own) individual counseling paid by her medical insurance; however, she failed to provide to the department or the court a report from her therapist and refused to allow the social

worker to contact the therapist directly. Rather, she insisted that the social worker ask her to obtain from the therapist whatever information the latter wanted.

Moreover, mother continues to display a lack of judgment in making decisions to protect her daughter. Rather, she minimizes her responsibility, placing blame on others for her failures. We find no basis to quarrel with the juvenile court's finding that she has not made substantive progress in her case plan.

DISPOSITION

The petition is denied.

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KING
J.

We concur:

RAMIREZ
P.J.

MILLER
J.